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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/807,410	04/19/2001	Gisela Schon		5923	
30008 75	590 08/11/2005		EXAMINER		
GUDRUN E. HUCKETT DRAUDT			VU, STEPHEN A		
LONSSTR. 53 WUPPERTAL,	42289		ART UNIT	PAPER NUMBER	
GERMANY			3636		
			DATE MAILED: 08/11/200	5	

Please find below and/or attached an Office communication concerning this application or proceeding.

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		Application No.	Applicant(s)					
Office Action Summary		09/807,410	SCHON, GISELA					
		Examiner	Art Unit					
		Stephen A. Vu	3636					
Period fo	The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply							
A SH THE - Exte - after - If th - If NO - Failt Any	MAILING DATE OF THIS COMMUNICATION. Pensions of time may be available under the provisions of 37 CFR 1. FINAL (6) MONTHS from the mailing date of this communication. Personal of reply specified above is less than thirty (30) days, a reply period for reply is specified above, the maximum statutory period ure to reply within the set or extended period for reply will, by statute reply received by the Office later than three months after the mailined patent term adjustment. See 37 CFR 1.704(b).	.136(a). In no event, however, ma oly within the statutory minimum o I will apply and will expire SIX (6) I te, cause the application to becom	y a reply be timely filed f thirty (30) days will be considered timely. MONTHS from the mailing date of this cor e ABANDONED (35 U.S.C. § 133).	nmunication.				
Status				. •				
1)⊠	Responsive to communication(s) filed on 23 /	<u> March 2005</u> .						
2a) <u></u> ☐	☐ This action is FINAL. 2b) ☐ This action is non-final.							
3) 🗌	•							
	closed in accordance with the practice under	Ex parte Quayle, 1935	C.D. 11, 453 O.G. 213.					
Disposit	tion of Claims							
4) 🖂	☑ Claim(s) <u>12,19-29,31 and 33-40</u> is/are pending in the application.							
	4a) Of the above claim(s) is/are withdrawn from consideration.							
	Claim(s) is/are allowed.							
	Claim(s) <u>12,19-29,31 and 33-40</u> is/are rejected.							
7)∐								
8) Claim(s) are subject to restriction and/or election requirement.								
• •	tion Papers		:					
9) The specification is objected to by the Examiner.								
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.								
	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
44)[7	Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
,		Zammer. Note the attac	Shed Office Action of form 1	0-102.				
Priority	under 35 U.S.C. § 119							
-	Acknowledgment is made of a claim for foreig All b		C. § 119(a)-(d) or (f).					
		•	in Application No.					
	 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage 							
	application from the International Bure	,		_				
*	See the attached detailed Office action for a lis		not received.	,				
Attachme								
1) Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) 4) Interview Summary (PTO-413) Paper No(s)/Mail Date								
3) 🔲 Info	rmation Disclosure Statement(s) (PTO-1449 or PTO/SB/08	8) 5) Notice	of Informal Patent Application (PTO	-152)				
Pap	er No(s)/Mail Date	6) L Other:	·					

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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

- 1. Determining the scope and contents of the prior art.
- 2. Ascertaining the differences between the prior art and the claims at issue.
- 3. Resolving the level of ordinary skill in the pertinent art.
- Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 12,19-29, and 31-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maymon (#5,582,464) in view of Preston (#2,520,563).

Maymon discloses a seating device comprising a base (10), means (60) for supporting an upper body of a person and connected to the base, and a seating surface (40) not connected to the means for supporting. However, Maymon does not show a driving means connected to the base. Preston teaches a bed frame (29) having driving means assembly (see Figure 3) and a base (11). The driving means assembly allows for the bed frame to move in a periodic, continuous and cyclical movement in two directions. It would have been obvious to one of ordinary skilled in the art at the time the invention was made to incorporate Preston's driving means assembly to the base of

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Maymon's seat device, in order to allow the seating surface to move in a periodic, continuous and cyclical movement in two directions.

Response to Arguments

The examiner has reviewed and considered the applicant's comments in the Response, filed on March 23, 2005. Based on another reconsideration, this Office action is considered to be Non-final.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Walter, Kvalheim, Larson, Schaevitz, and Serber are cited as showing similar types of seating device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A. Vu whose telephone number is 571-272-6862. The examiner can normally be reached on M-F from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen Vu

June 27, 2005